

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEE ARTERS t/a GREENDALE BUILDERS

Plaintiff,

v.

ZURICH AMERICAN INSURANCE CO. t/a,
ZURICH NORTH AMERICA as successor in
Interest to ASSURANCE CO. OF AMERICA, et al.

Defendants.

CIVIL ACTION - LAW

No. 02-CV-4388

JURY OF TWELVE (12)
DEMANDED

ORDER

AND NOW, this _____ day of _____, 2003, upon consideration of Plaintiff's Motion to Compel Defendants' Responses to Plaintiff's Interrogatories and Request for Production of Documents, and any responses thereto, it is hereby **ORDERED** and **DECREED** that said motion is **GRANTED**. Defendants, Zurich American Insurance Co. t/a Zurich North America as successor in interest to Assurance Co. of America and Assurance Company of America, are **ORDERED** to provide full and complete responses, without objection, to Plaintiff's Requests for Production of Documents and Plaintiff's Interrogatories (first and second sets) within ten (10) days of the date of this order, or suffer possible sanctions upon application to the court.

IT IS SO ORDERED

J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEE ARTERS t/a GREENDALE BUILDERS

Plaintiff,

v.

ZURICH AMERICAN INSURANCE CO. t/a,
ZURICH NORTH AMERICA as successor in
Interest to ASSURANCE CO. OF AMERICA, et al.

Defendants.

CIVIL ACTION - LAW

No. 02-CV-4388

JURY OF TWELVE (12)
DEMANDED

**PLAINTIFF'S MOTION TO COMPEL DEFENDANTS'
RESPONSES TO PLAINTIFF'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS**

1. On or about August 21, 2002, Plaintiff sent to Defendants Plaintiff's First Set of Interrogatories Addressed to Defendants, Zurich American Insurance Co. t/a Zurich North America and Assurance Co. of America (the "First Set of Interrogatories"). A true and correct copy of the First Set of Interrogatories is attached hereto as Exhibit "A".

2. By letter dated September 16, 2002, Defendants requested "a reasonable extension of time" to answer the First Set of Interrogatories. A true and correct copy of the September 16, 2002 letter is attached hereto as Exhibit "B". Plaintiffs did not respond to such request.

3. On or about November 5, 2002, Defendants filed a status report with the Court stating their estimate that discovery could be completed by February 4, 2003 (the "Status Report"). A true and correct copy of the Status Report is attached hereto as Exhibit "C".

4. On or about November 20, 2002, Plaintiff sent to Defendants Plaintiff's Second Set of Interrogatories and Request for Production of Documents of Plaintiff Addressed to Defendant (together, the "Second Set of Discovery Requests"). True and correct copies of the Second Set of Discovery Requests are attached hereto as Exhibit "D".

5. By letter dated January 16, 2003, Plaintiffs requested responses to the First Set of Interrogatories and the Second Set of Discovery Requests. A true and correct copy of the January 16, 2003 letter is attached hereto as Exhibit "E".

6. By letter dated January 17, 2003, Plaintiffs granted an extension until January 24, 2003 for full and complete responses to the First Set of Interrogatories and the Second Set of Discovery Requests. A true and correct copy of the January 17, 2003 letter is attached hereto as Exhibit "F".

7. On January 24, 2003, Defendants' counsel again requested an extension of time to respond, which was granted until January 31, 2003.

8. On January 31, 2003, Defendants' counsel again requested an extension of time, which was granted until February 4, 2003.

9. On February 4, 2003, Defendants' counsel again requested an extension of time, which was denied.

10. Defendants have failed to answer the First Set of Interrogatories and the Second Set of Discovery Requests, and have made no objection to the content of same.

11. The Federal Rules of Civil Procedure require that a party respond to another party's discovery requests within thirty (30) days after service thereof. *See* F.R.C.P. 34(b).

12. Plaintiff requests the First Set of Interrogatories five and one-half months ago, and the Second Set of Discovery Requests two and one-half months ago.

13. Despite Plaintiff granting Defendants' repeated requests for extensions of time, Defendants have failed to any of Plaintiff's discovery requests.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant this Motion and compel Defendants to provide full and complete responses to the First Set of Interrogatories and the Second Set of Discovery Requests within ten (10) days of the date of such Order of the Court.

Date: February 6, 2003

VAUGHAN, DUFFY & CONNORS, LLP

By: _____

Francis X. Nolan, Esquire
Attorney for Plaintiff Lee Arters t/a
Greendale Builders

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEE ARTERS t/a GREENDALE BUILDERS

Plaintiff,

v.

ZURICH AMERICAN INSURANCE CO. t/a,
ZURICH NORTH AMERICA as successor in
Interest to ASSURANCE CO. OF AMERICA, et al.

Defendants.

CIVIL ACTION - LAW

No. 02-CV-4388

JURY OF TWELVE (12)
DEMANDED

CERTIFICATE OF GOOD FAITH EFFORTS

Francis X. Nolan, Esquire, for the Plaintiff, Lee Arters t/a Greendale Builders, hereby certifies that he made the following good faith efforts to resolve this discovery dispute:

1. On January 16, 2003, Plaintiff sent a letter to Defendants inquiring into the whereabouts of Defendants' responses to the Plaintiff's First Set of Interrogatories Addressed to Defendants, Zurich American Insurance Co. t/a Zurich North America and Assurance Co. of America (the "First Set of Interrogatories") and Plaintiff's Second Set of Interrogatories and Request for Production of Documents of Plaintiff Addressed to Defendant (together, the "Second Set of Discovery Requests").

2. On January 17, 2003, Plaintiff granted Defendants and extension of time until January 24, 2003 to answer all aforementioned discovery requests.

3. On January 24, 2003, Plaintiff granted Defendants an additional extension of time until January 31, 2003 to answer all aforementioned discovery requests.

4. On January 31, 2003, Plaintiff granted Defendants yet another extension of time until February 4, 2003 to answer all aforementioned discovery requests.

5. On February 4, 2003, Defendants requested yet another extension of time to respond to all discovery requests, which was denied.

Date: February 6, 2003

VAUGHAN, DUFFY & CONNORS, LLP

By:

Francis X. Nolan, Esquire
Attorney for Plaintiff Lee Artters t/a
Greendale Builders

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEE ARTERS t/a GREENDALE BUILDERS

Plaintiff,

v.

ZURICH AMERICAN INSURANCE CO. t/a,
ZURICH NORTH AMERICA as successor in
Interest to ASSURANCE CO. OF AMERICA, et al.

Defendants.

CIVIL ACTION - LAW

: No. 02-CV-4388

JURY OF TWELVE (12)
DEMANDED

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on this day a true and correct copy of the foregoing Plaintiff's Motion to Compel Defendants' Responses to Plaintiff's Interrogatories and Requests for Production of Documents was served by first class mail, postage prepaid, addressed as follows:

Carl Delacato, Jr., Esquire
Hecker, Brown, Sherry & Johnson, LLP
1700 Two Logan Square
18th and Arch Streets
Philadelphia, PA 19103

VAUGHAN, DUFFY & CONNORS, LLP

By: _____

Francis X. Nolan, Esquire
Attorney for Plaintiff

Date: February 6, 2003